

United States Department of Agriculture



Natural Resources Conservation Service  
P.O. Box 2890  
Washington, D.C. 20013

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January 6, 2010

CONSERVATION PROGRAMS MANUAL (CPM)  
440-PGM  
Circular No. 11, Part 510, Appeals and Mediation

SUBJECT: PGM – Appeals Agency Records and 2008 Farm Bill Section 1619 Requirements

Purpose. To provide clarification of the 2008 Farm Bill Section 1619 requirements to protect personally identifiable information (PII) provided by a program participant that can identify an agricultural operation.

Effective Date. This Circular is effective upon receipt.

Background. Section 1619 of the 2008 Farm Bill (16 U.S.C.) requires that “the Secretary, any officer or employee of the Department, or any contractor or cooperator of the Department, shall not disclose—

- (1) Information provided by an agricultural producer or owner of agricultural land concerning the agricultural operation, farming or conservation practices, or the land itself, in order to participate in programs of the Department.
- (2) Geospatial information otherwise maintained by the Secretary about agricultural land or operations for which information described in subparagraph (A) is provided.”

NRCS policy guidance to reinforce this statutory requirement is published in General Manual (GM), Title 120, Part 408: GM-120, Part 408, Subpart C, Freedom of Information Act, Section 408.41, states that: “In limited circumstances, nonpublic information obtained from individuals may be disclosed or released only to the extent necessary to enforce natural resources conservation programs or to assist in providing technical or financial assistance for any natural resource conservation program administered by NRCS or the Farm Service Agency.” GM-120, Part 408, Subpart C, Freedom of Information Act, Section 408.45(f), further clarifies that “Routine uses of records maintained in the system, including categories of users and the purposes of such uses (1) Records may be disclosed to cooperating Federal, State, and local agencies, as necessary for implementation of conservation programs.”



NRCS asked the USDA Office of General Counsel (OGC) to clarify the limited release of PII information and exceptions to these requirements regarding agency records assembled for use in the USDA administrative appeals procedures. OGC provided the following guidance:

“The Farm Service Agency (FSA) and the National Appeals Division (NAD) are USDA agencies, so based on (the language in Section) 1619, the agency record **does not require PII to be redacted**. PII of third parties participating in an appeal may also be provided without redaction. As long as there is not a third party involved that will compromise (Section) 1619, then the agency record does not need to be redacted. There is no problem releasing any records to FSA or NAD, or to an appellant when the records pertain to the appellant, and by extension, to any third party directly involved in the appeal.”

NRCS will be amending the Conservation Programs Manual, Title 440, Part 510, in the near future to include this guidance.

Contact. Refer questions to the Acting National Appeals and Equitable Relief Specialist at (202) 690-2825; to the Conservation Technical Assistance Branch Chief at (202) 720-7730; or to the Acting Wetland and HEL Compliance Specialist at (202) 720-7015.

/s/

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